

Notice of Allowability

Application No.

10/003,350

Examiner

Minerva Rivero

Applicant(s)

OSTERMANN ET AL.

Art Unit

2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 2/23/05.
2. ☒ The allowed claim(s) is/are 1-15 and 22 (now 1-16, respectively).
3. ☒ The drawings filed on 11/2/01 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

W. R. YOUNG
PRIMARY EXAMINER

MR 7/23/2005

DETAILED ACTION

Response to Amendment

1. In the Remarks filed on 2/23/2005 in response to the Office Action mailed on 11/26/2004, Applicants amended claims 1-3, 5, 9 and 22, canceled claims 16-21 and 23-31, and submitted arguments for allowability of pending claims. Furthermore, Applicants amended the title of the invention and corrected the numbering of the claims by canceling them.

Allowable Subject Matter

2. Claims 1-15 and 22 are allowed.

3. The following is an examiner's statement of reasons for allowance:

4. Regarding claims 1, 9 and 22 the combined teachings of Liles *et al.* (U.S. Patent 5,880,731) and Rosenblatt *et al.* (U.S. 2002/0007276) disclose

storing emoticons related to actions associated with the animated entity (Liles *et al.*, gestures, Col. 9, Lines 33-34);

providing to a sender at least one button option for choosing emoticons to insert into the text message at a location of a cursor (Liles *et al.*, *gesture toolbar*, Col. 9, Lines 35-38; Col. 9, Lines 55-58) and

upon the sender choosing an emoticon using one of the at least one button options, inserting an emoticon into the text message at the location of the cursor (Liles *et al.*, Col. 5, Lines 27-32; Col. 9, Lines 53-60; Fig. 13, element 268; Col. 13, Lines 2-7).

an animated entity audibly delivering a text message (Rosenblatt *et al.*, virtual representatives, [0015], Lines 7-22)) and

wherein the animated entity delivers the text message, the animated exhibits the actions associated with the emoticons (Rosenblatt *et al.*, [0019], Lines 1-6).

However, the combined teachings of Liles *et al.* and Rosenblatt *et al.* do not disclose nor fairly suggest

the inserted emoticons beginning at a point corresponding to a first predetermined number of words before a respective one of the emoticons and ending at a second point corresponding to a second predetermined number of words after the respective one of the emoticons, wherein the first predetermined number of words and the second predetermined number of words are associated with respective word lengths of words before and after a position of the respective one of the emoticons within the text message.

5. Regarding claims 2-8 and 10-15, they are allowed because they further limit independent claims 1 and 9, or their parent claims.
6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minerva Rivero whose telephone number is (571) 272-7626. The examiner can normally be reached on Monday-Friday 9:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Talivaldis Ivars Smits can be reached on (571) 272-7628. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MR 7/23/05



**W. R. YOUNG
PRIMARY EXAMINER**